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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,346	12/02/2003	Kevin J. Negus	034421-133	5475

7590 06/28/2005

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San Jose, CA 95164-0640

EXAMINER

FOX, JAMAL A

ART UNIT	PAPER NUMBER
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2664

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/727,346

Applicant(s)

NEGUS, KEVIN J.

Examiner

Jamal A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date 5/25/2005
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claim 19 objected to because of the following informalities: There is more than one claim 19. Appropriate correction is required.

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-53 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The "parameter" in claims 1-53 is non functional descriptive subject matter. Claims 1-53 lack subject matter eligibility.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 16, 17, 34 and 49 are rejected under 35 U.S.C. 102(e) as being anticipated by Gao et al. (U.S. Patent Application Pub. No. 2004/0083287).

Referring to claim 1, Gao et al. discloses a wireless networking device (Fig. 2 and respective portions of the spec.) operating within a network protocol (protocol, page 5 [0054]) in which a reservation (reservation, page 5 [0054]) is made for transmission of

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data of one or more other wireless network devices (Fig. 1 ref. signs 102 and 114 and respective portions of the spec.), the wireless networking device comprising:

a dynamic reservation determination module (Fig. 2 ref. sign 214 and respective portions of the spec.), the module supplying a reservation parameter (RSVP, page 5 [0054]) associated with a reservation of a certain length, the transmission of data corresponding to multiple (multiple, page 5 [0054]) separate transmissions within the certain length, the dynamic reservation module selectively changing (new reservation updating ability, page 5 [0054]) the reservation parameter based on the results of prior transmissions.

Referring to claim 16, Gao et al. discloses a wireless networking device operating within a network protocol (protocol, page 5 [0054]) in which a reservation (reservation, page 5 [0054]) is made for transmission of data with a dynamically updateable (new reservation updating ability, page 5 [0054]) reservation parameter, the wireless networking device comprising: a utilization module (Fig. 2 ref. sign 216 and respective portions of the spec.), the utilization module determining the efficiency (efficiently, [0052]) characteristics of the reservation, and initiating a signal (signaling, [0052] & [0067]) to alter the reservation parameter.

Referring to claim 17, Gao et al. discloses a wireless networking device operating within a network protocol (protocol, page 5 [0054]) in which a reservation (reservation, page 5 [0054]) is made for transmission of data, the wireless networking device comprising:

a utilization module (Fig. 2 ref. sign 216 and respective portions of the spec.), the utilization module determining the efficiency (efficiently, [0052]) characteristics of a the reservation, and initiating a signal (signaling, [0052] & [0067]) associated with the determined efficiency; and

a dynamic reservation determination module (Fig. 2 ref. sign 214 and respective portions of the spec.), communicatively coupled to the utilization module, that supplies a reservation parameter (RSVP, page 5 [0054]) for making a reservation of a certain length, the dynamic reservation module operable to alter (new reservation updating ability, page 5 [0054]) the reservation parameter in response to the signal (signaling, [0052] & [0067]) generated by the utilization module.

Referring to claim 34, Gao et al. discloses a wireless networking device operating within a network protocol (protocol, page 5 [0054]) in which a reservation (reservation, page 5 [0054]) is made for transmission of data, the wireless networking device comprising:

utilization monitoring means (Fig. 2 ref. sign 216 and respective portions of the spec.), the utilization monitoring means determining the efficiency (efficiently, [0052]) characteristics of a transmission, and initiating a signal (signaling, [0052] & [0067]) associated with the determined efficiency; and

means for selectively determining a reservation (Fig. 2 ref. sign 214 and respective portions of the spec.), communicatively coupled to the utilization monitoring means, that supplies a reservation parameter for making a reservation of a certain length, the means for selectively determining a reservation operable to alter (new

reservation updating ability, page 5 [0054]) the reservation parameter in response to the signal (signaling, [0052] & [0067]) generated by the utilization monitoring means.

Referring to claim 49, Gao et al. discloses a wireless networking device operating within a network protocol (protocol, page 5 [0054]) in which a reservation (reservation, page 5 [0054]) is made for transmission of data, the wireless networking device communicating to two or more wireless networking devices (Fig. 1 ref. signs 102 and 114 and respective portions of the spec.), the wireless networking device comprising:

a utilization module (Fig. 2 ref. sign 216 and respective portions of the spec.), the utilization module determining the efficiency (efficiently, [0052]) characteristics of a transmission, and initiating a signal (signaling, [0052] & [0067]) associated with the determined efficiency;

a dynamic reservation module (Fig. 2 ref. sign 214 and respective portions of the spec.), communicatively coupled to the utilization module, that supplies a reservation parameter (RSVP, page 5 [0054]) for making reservation of a certain length, the dynamic reservation module operable to alter (new reservation updating ability, page 5 [0054]) the reservation parameter in response to the signal (signaling, [0052] & [0067]) generated by the utilization module;

the wireless networking device (Fig. 1 ref. sign 114 and respective portions of the spec.) using and selectively altering a first dynamic reservation parameter when communicating with a first other wireless networking device; and

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the wireless networking device (Fig. 1 ref. sign 102 and respective portions of the spec.) using and selectively altering a second dynamic reservation parameter when communicating with a second other wireless networking device.

***Conclusion***

**5. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 305-3988, (for formal communications intended for entry)

**Or:**

(703) 305-3988 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II,  
2121 Crystal Drive, Arlington, VA. 22202, Sixth Floor (Receptionist).

**6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (571) 272-3143. The examiner can normally be reached on Monday-Friday 6:30 AM - 5:00 PM.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

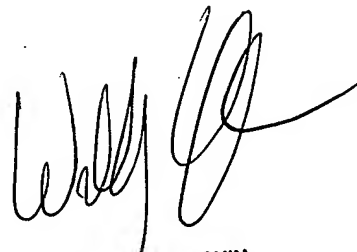
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872-9306 for regular communications and (703) 872-9315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

A handwritten signature in black ink, appearing to read "Jamal A. Fox". The signature is fluid and cursive, with the first name "Jamal" being more prominent.

Jamal A. Fox

A handwritten signature in black ink, appearing to read "Wellington Chin". The signature is fluid and cursive, with the first name "Wellington" being more prominent.  
**WELLINGTON CHIN  
SUPERVISORY PATENT EXAMINER**